

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 7
(MC2016-196 and CP2016-280)
Negotiated Service Agreement

Docket No. CP2018-167

PUBLIC REPRESENTATIVE COMMENTS ON
NOTICE OF UNITED STATES POSTAL SERVICE OF FILING A
FUNCTIONALLY EQUIVALENT GLOBAL EXPEDITED PACKAGE SERVICES 7
NEGOTIATED SERVICE AGREEMENT
(February 16, 2018)

I. INTRODUCTION

The Public Representative hereby provides comments pursuant to the Commission's notice initiating this docket.¹ In that notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of Filing a Functionally Equivalent Global Expedited Package Services 7 (GEPS 7) Negotiated Service Agreement.² Redacted versions of the contract (Contract), a certification of compliance with 39 U.S.C. § 3633, and Governors' Decision No. 11-6 were filed as attachments to this Notice along with supporting financial models, which were filed separately as Excel files. Unredacted versions of redacted documents were also filed separately under seal.

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, February 13, 2018.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, February 12, 2018 (Notice). The Notice includes the following attachments: Attachment 1 is a redacted copy of the contract (Contract); Attachment 2 is a redacted Certification of Compliance with 39 U.S.C. § 3633(a) (Certification); Attachment 3 is a redacted copy of Governors' Decision 11-6; and Attachment 4 is an application for non-public treatment of materials.

Agreements with the GEPS 7 product offer pricing to customers that mail products directly to foreign destinations using Priority Mail Express International (PMEI), Priority Mail International (PMI), or First-Class Package International Service (FCPIS). Notice at 4. Prices offered pursuant to an agreement may differ depending upon the volume or postage commitments made by the mailers or the agreement date due to the incorporation of updated costing information. *Id.*

Prices and classifications “not of general applicability” for GEPS agreements were previously established by Governors’ Decision No. 08-7.³ In Order No. 86, the Commission established GEPS as a product on the competitive product list.⁴ The Commission subsequently approved the addition of the GEPS 7 product to the competitive product list (MC2016-196), and included within that product a GEPS 7 agreement (CP2016-280) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.⁵

The effective date of the Contract is intended to be March 1, 2018. *Id.* at 3. The Contract is expected to remain in effect for one calendar year from the effective date, subject to early termination provisions. *Id.*

The Postal Service states that the Contract is functionally equivalent in all pertinent respects to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 6. The Postal Service therefore requests that the Contract be added to the GEPS 7 product grouping. *Id.*

II. COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the unredacted Contract, and the supporting financial models that were filed under seal.

³ See Docket No. CP2008-5, United States Postal Service Notice of Filing Redacted Copy of Governors’ Decision No. 08-7, May 6, 2008 (Governors’ Decision No. 08-7). A redacted copy of the Governors’ Decision was also filed as Attachment 3 to the Notice. An unredacted copy of the Governors’ Decision was filed previously under seal. Docket No. CP2008-4, Notice of United States Postal Service of Governors’ Decision Establishing Prices and Classifications for Global Expedited Package Service Contracts, May 20, 2008.

⁴ Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008 (Order No. 86).

⁵ Docket Nos. MC2016-196 and CP2016-280, Order Approving Global Expedited Package Services 7 Negotiated Service Agreement, September 27, 2016 (PRC Order No. 3542).

Based on that review, the Public Representative finds that the Contract is functionally equivalent to the GEPS 7 baseline agreement. In addition, it appears that the prices offered in the Contract should generate sufficient revenues to cover costs.

Functional Equivalence. The Postal Service asserts that the Contract shares similar cost and market characteristics as those of the contract that is the subject of Docket No. CP2016-280, which serves as the baseline agreement for the GEPS 7 product grouping. *Id.* at 4. However, the Postal Service identifies differences between the Contract and the GEPS 7 baseline agreement. *Id.* at 5. Most of these differences are specific to the customer (e.g., the customer's name and address). Other differences between the Contract and the GEPS 7 baseline agreement include revisions to paragraphs; revisions to numerous existing articles, as well as deletion, addition and renumbering of some articles; and revisions to Annexes 1 and 2. *Id.*

The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.* at 5. The Public Representative concludes that the Contract exhibits similar cost and market characteristics to the baseline agreement. Therefore, the Public Representative agrees that the Contract is functionally equivalent to the baseline agreement and should be included within the GEPS 7 product.

Pricing Considerations. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial model does not directly address whether the addition of the Contract to the GEPS 7 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Contract will generate sufficient revenue to cover its attributable costs. Therefore, the inclusion of the Contract within the GEPS 7 product will not cause the product's cost coverage to fall below 100 percent, assuming the product currently covers its attributable costs. Under this

assumption, the addition of the Contract should allow the GEPS 7 product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the maintenance of cost coverage by the GEPS 7 product should improve the likelihood that competitive products as whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3). The Commission will have an opportunity to review the financial results for the Contract in a future ACD Report for compliance with 39 U.S.C. 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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